

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

4 UNITED STATES OF AMERICA

5 v.

17 CR 417 (AKH)

6 ALI KOURANI,

Hearing

7 Defendant.

8 -----x
9 New York, N.Y.
10 March 27, 2018
11 2:45 p.m.

12 Before:

13 HON. ALVIN K. HELLERSTEIN

14 District Judge

15 APPEARANCES

16 GEOFFREY S. BERMAN
17 Interim United States Attorney for the
18 Southern District of New York

19 AMANDA L. HOULE
20 EMIL J. BOVE III
21 Assistant United States Attorneys

22 ALEXEI SCHACHT
23 Attorney for Defendant

1 (Hearing resumed)

2 MARK DENBEAUX, resumed.

3 THE COURT: I remind you, Mr. Denbeaux, that you
4 remain under oath. Mr. Bove will continue his
5 cross-examination.

6 CROSS-EXAMINATION (continued)

7 BY MR. BOVE:

8 Q. Good afternoon, Mr. Denbeaux.

9 A. Good afternoon.

10 Q. After you left the courtroom yesterday, did you discuss the
11 case with anyone?

12 A. No, I did not.

13 Q. Did you review any documents related to the case?

14 A. No, I did not.

15 Q. When you first met Ali Kourani, he told you that his
16 children were in town with his wife, correct?

17 A. Yes.

18 Q. He told you that he was distressed by the circumstances
19 that they were in?

20 A. Yes.

21 Q. You understood that Kourani's concerns related to disputes
22 with his wife and her family, correct?

23 A. I think part of them, yes.

24 Q. You were aware that Kourani was having serious domestic
25 problems dealing with his children?

1 A. I knew he had a lot of problems with his children. I don't
2 remember whether it was domestic or not.

3 Q. You testified yesterday about a conversation you had with
4 Mr. --

5 THE COURT: He knows he had trouble with his wife, he
6 knows that he had trouble with his children. Let's move on.

7 Q. Mr. Kourani also told you about an incident in which
8 members of Hezbollah shot at his house in Lebanon, correct?

9 A. Yes.

10 Q. He told you that happened in August of 2016?

11 A. I don't think he told me when that happened. He discussed
12 that with Mr. Costello when I was in the room. I don't
13 remember being told that separately, but I probably was.

14 Q. So this was something that Mr. Kourani said to the FBI the
15 first time, before you even knew about that?

16 THE COURT: He didn't say that. Open up new
17 territory. We have gone over this a number of times.

18 Q. In May of 2017, Mr. Kourani told you that he was
19 considering going back to Lebanon, correct?

20 A. I think the subject came up. I don't know that he said he
21 was considering going. But he was feeling like there was no
22 point in staying here for him.

23 Q. He told you that he tried to leave but he learned that he
24 was on a no-fly list?

25 A. I don't remember that.

1 Q. You don't remember saying that to Special Agent Costello in
2 May of 2017?

3 A. I remember saying something about his seeing no point in
4 staying here and wanting to leave. I don't know about the
5 no-fly list. In fact, Mr. Costello told me he wouldn't be able
6 to leave because he was on a no-fly list.

7 Q. Leave to go to Lebanon, correct?

8 A. I think so.

9 Q. You testified yesterday that Mr. Schacht wrote most of your
10 2017 declaration?

11 A. I think said that. I don't know what "most" means. But
12 yes, he certainly drafted it.

13 Q. "Most" is a word that you used, correct?

14 A. I don't remember.

15 THE COURT: Why go over this again? Mr. Bove, new
16 ground. Don't repeat.

17 Q. Mr. Schacht wrote all of the declaration, correct?

18 THE COURT: Mr. Bove, did you hear me?

19 MR. BOVE: Yes, Judge.

20 THE COURT: Move on to something else.

21 MR. BOVE: May I approach, Judge?

22 THE COURT: You may. You don't have to ask me.

23 Q. I show you a document we discussed yesterday, Government
24 Exhibit 402.

25 A. Yes.

1 Q. Do you recognize that?

2 A. Yes.

3 Q. You recognize this as a document you provided to agents
4 during the second meeting?

5 A. Yes.

6 Q. Before you wrote this document, you knew that Hezbollah was
7 a terrorist organization, correct?

8 A. Actually, I probably did not. I was aware of some, and I
9 didn't know if Hezbollah was the government or secret governing
10 force, but I obviously knew it wasn't a nice collection of
11 people. I don't know what terrorist list they were on or not.

12 Q. Did you know that some members of Hezbollah were involved
13 in terrorist activities?

14 A. Oh, yes.

15 Q. You testified yesterday about a conversation that you
16 had --

17 THE COURT: Hezbollah blew up the Marines in Lebanon
18 in 19 --

19 THE WITNESS: 83.

20 THE COURT: You knew that.

21 THE WITNESS: I knew they were said to have done that.
22 I didn't know. I wasn't surprised by it.

23 Q. You testified yesterday about a conversation that you said
24 you had with an agent at the first interview of Ali Kourani,
25 correct?

1 A. We had several during that conversation.

2 Q. You said yesterday that at the first interview you made it
3 very clear that Kourani was not a suspect, a subject, a target,
4 and that there were no plans to prosecute him?

5 A. Yes, that was my understanding. That's what I told them.

6 THE COURT: That wasn't the question.

7 A. Yes.

8 THE COURT: Listen to the question again, please.

9 (Question read)

10 A. Yes.

11 Q. You confirm that that was your testimony yesterday?

12 A. Yes.

13 Q. You testified that the agent's only response to that was
14 "Thank you very much"?

15 A. I don't remember what I said yesterday, but he obviously --
16 yes, we talked about it. He said something in response to it.

17 Q. You testified yesterday that what the agent said was "Thank
18 you very much," correct?

19 A. I don't remember what I said yesterday, but I do know that
20 when he and I talked about it, he acquiesced, nodded. We
21 discussed it very, very superficially.

22 THE COURT: You knew that the agents couldn't bind
23 anybody, didn't you?

24 THE WITNESS: Yes, your Honor. That goes to the
25 question of immunity. I don't believe they could bind anybody.

1 I do believe they could advise me -- I believe they understood
2 that if we didn't have an understanding, my client was not
3 going to voluntarily sit and talk to them and put himself in
4 jeopardy. So we did discuss the fact that he was there
5 voluntarily.

6 THE COURT: On such an important matter, why didn't
7 you write a letter stating this other than to slip it through
8 in a memorandum like you did?

9 THE WITNESS: I've asked that question myself several
10 times, your Honor. I don't know why I didn't. I actually
11 believed when my client came in that he was there because he
12 had information to give them that he thought they wanted. They
13 seemed to believe they wanted it also, and he wanted help from
14 them. I didn't believe --

15 THE COURT: You've done criminal defense and you teach
16 criminal defense. How could you let your client go into a
17 situation without writing a letter that he is not a suspect or
18 a target?

19 THE WITNESS: Your Honor, I guess the answer was I
20 thought this memo that I gave them followed the conversation
21 that we had, and I confirmed it in this memo. Granted it
22 wasn't a letter, but I went out of my way to record it just to
23 make it clear after the first meeting.

24 THE COURT: I just don't understand. You knew that
25 the agents didn't have authority. Wouldn't you want this

1 important fact to be recorded by somebody with authority, like
2 a government prosecutor, Assistant U.S. Attorney, a supervisor
3 in the FBI, somebody that you could rely on?

4 THE WITNESS: I guess, your Honor, I relied on them,
5 including their statement that each day they would go back and
6 talk about what information he'd given and how helpful he has
7 been and how much assistance they were willing to give him in
8 getting his children back. Those conversations came
9 frequently, including their describing that they are reporting
10 to their superiors.

11 THE COURT: I know he wanted them to help him with
12 immigration, but this is another matter. This is a matter
13 where any normal lawyer would put something in writing before
14 his client would commit himself to incriminating information.
15 It's hard for me to understand why you didn't do that if what
16 you say occurred, that you said he is not a suspect or a target
17 and they agreed.

18 THE WITNESS: I said that in writing. What I put here
19 in writing was a summary of what I had said the first time too.
20 I had always said that, and he always at least acquiesced in my
21 view on it. They had always been grateful. They would thank
22 him for his cooperation, we would discuss something, they would
23 say that's very helpful.

24 THE COURT: They never once said that he is not a
25 suspect?

1 THE WITNESS: No, they never said that.

2 THE COURT: Did they once say he is not a target?

3 THE WITNESS: No.

4 THE COURT: It's just your words not theirs?

5 THE WITNESS: That's right. My words and their
6 acquiescence. But my words.

7 THE COURT: Their acquiescence, they didn't correct
8 it?

9 THE WITNESS: They certainly didn't correct it. They
10 nodded. We would talk about it frequently back and forth. We
11 were there for four or five days in an informal series of
12 conversations in which they were thanking me for helping them,
13 thanking Mr. Kourani for helping them. Everything about our
14 communications in that circumstance I was led to believe and I
15 think Mr. Kourani was, if for no other reason by me, that he
16 was there helping and cooperating. He wasn't a target. I
17 never believed we were negotiating immunity.

18 THE COURT: You said he was not a suspect, yet you
19 knew there were a lot of bad things about Hezbollah and if you
20 checked you would have found out it was a terrorist
21 organization.

22 THE WITNESS: Yes.

23 THE COURT: So how could you say that he hadn't
24 committed a crime?

25 THE WITNESS: Your Honor, the question of committing a

1 crime was being a member of a terrorist organization.

2 THE COURT: And being trained by them. You knew that,
3 too.

4 THE WITNESS: I knew that eventually, your Honor.

5 THE COURT: You knew that before you went in?

6 THE WITNESS: No.

7 THE COURT: Didn't you debrief your client before you
8 went in?

9 THE WITNESS: We spent a lot of time debriefing it.
10 The question our client had was he was sure he had information
11 that was going to be helpful, he was sure he would give them
12 everything he had, he knew they wanted information from him.

13 THE COURT: You went in saying he was a member of
14 Hezbollah and but you never asked him if he --

15 MR. SCHACHT: Objection.

16 THE COURT: Overruled. On what grounds?

17 MR. SCHACHT: It gets into attorney-client privileged
18 material.

19 THE COURT: If he is saying he relied on what his
20 attorney said, which I think he is, then the privilege is
21 waived. Overruled.

22 MR. SCHACHT: Can I make a record, your Honor, very
23 briefly?

24 THE COURT: Yes.

25 MR. SCHACHT: I think it is legitimate to ask what did

1 Mr. Denbeaux say to Mr. Kourani because that might be something
2 he relied upon. But what Mr. Kourani said to Mr. Denbeaux I
3 don't think is relevant.

4 THE COURT: I take your point. I'll amend the
5 question.

6 You knew that your client was involved in a terrible
7 organization, as you put it, one that had members committing
8 terrorist acts, including killing a large number of American
9 soldiers? You knew that?

10 THE WITNESS: Yes, your Honor.

11 THE COURT: You didn't go into the FBI agents or U.S.
12 Attorney yourself and tell them what you think your client
13 might say? For example, get a queen-for-a-day type of
14 activity, you didn't do that?

15 THE WITNESS: No, your Honor.

16 THE COURT: You just brought in your client, and you
17 agree with me that the government never said anything about
18 your client was not a suspect or a target and so was not
19 immunized?

20 THE WITNESS: They said absolutely no words with
21 regard to that. But I would say the communication was much
22 more clear than what is coming across from what I was just
23 saying.

24 THE COURT: They were just silent?

25 THE WITNESS: They were just silent.

1 THE COURT: They continued to ask the questions and
2 continued to get information?

3 THE WITNESS: Yes, your Honor. At one point I made it
4 very clear to them that I saw no reason to be here as long as
5 his voluntary conversations with them and their promises it
6 would be held in confidence would not be honored.

7 THE COURT: What does it mean "hold in confidence"?
8 He was worried that somebody in the Lebanese community would
9 get wind of his cooperation?

10 THE WITNESS: That was one thing.

11 THE COURT: He was worried that his family might get
12 shot up by Hezbollah in Lebanon?

13 THE WITNESS: If he cooperated with the FBI, yes.

14 THE COURT: It was very important for him to get his
15 family out of Lebanon?

16 THE WITNESS: Yes, your Honor.

17 THE COURT: He was silent because he was afraid they
18 would not live in Lebanon?

19 THE WITNESS: Yes.

20 THE COURT: Somebody would shoot them, particularly if
21 they knew he was talking to the government.

22 THE WITNESS: Yes.

23 THE COURT: Didn't you think the confidence related to
24 that rather than immunity from prosecution?

25 THE WITNESS: I never thought he was getting immunity

1 from prosecution for anything he had done. I thought they
2 would not be using the confidential communication that he gave
3 to them that they wouldn't otherwise have had as criminal acts
4 themselves. That's where I was.

5 THE COURT: What's the difference?

6 THE WITNESS: The difference might be, your Honor,
7 they came in and felt he committed crimes and they wanted to
8 get information from him or work out a plea or work out a deal.
9 In this case they came in, as I understood it, and I'm sure he
10 did, because they wanted help from him with information in
11 investigations they were doing of others and of Hezbollah in
12 the country.

13 They wanted that information. And he was prepared to
14 give it to them voluntarily provided it was going to be viewed
15 in confidence between us and them. They could use it for any
16 background information they wanted, any investigation they
17 wanted, and that he would not be exposed for having done that,
18 and that included not being publicly arrested or prosecuted.
19 All of that is what I understood he was offering, and that's
20 what I believed that we were negotiating and agreeing to and
21 providing.

22 THE COURT: Mr. Bove.

23 BY MR. BOVE:

24 Q. You didn't ask the agents to sign Government Exhibit 402,
25 correct?

1 A. No, I didn't.

2 Q. You just described what your understanding of these
3 meetings was?

4 A. Yes.

5 Q. You understood that the agents expected that Mr. Kourani
6 would tell the truth in exchange for anything, correct?

7 A. Yes. I believed he expected that he had to tell the truth
8 regardless. That was the one instruction I gave him. You
9 don't have to talk to them, but if you do, make sure you tell
10 the truth.

11 Q. Because telling the truth was a precondition to anything
12 else being done, correct?

13 A. No.

14 Q. It is your testimony that you believed that Mr. Kourani
15 would walk into the room and lie and that the agents would
16 provide benefits to him?

17 A. No, I'm not talking about precondition. I told my client
18 that he had an obligation, that it was foolish of him to come
19 talk if he weren't going to come tell the truth. He agreed
20 that he was. My understanding was his criminal exposure was
21 limited to having lied to FBI agents. He assured me he under-
22 stood that and had no intention of, and to my knowledge never
23 did, lying.

24 Q. You understood that he did have potential criminal exposure
25 with respect to potential lies to FBI agents?

1 A. If he lied to an FBI agent, he and I both understood there
2 was criminal exposure there.

3 Q. Because you know that lying to FBI agents is a crime?

4 A. Absolutely.

5 Q. And withholding information during a conversation is a lie,
6 correct?

7 A. Withholding can be a lie. I don't know what you are
8 referring to, but clearly withholding information is a
9 variation of lying.

10 Q. It's possible to commit the crime of lying to federal
11 agents by intentionally withholding information?

12 A. That is my understanding.

13 Q. You acknowledge in your notes document, Government Exhibit
14 402, that the agents believed that Mr. Kourani had withheld
15 information in the first meeting, correct?

16 A. Yes.

17 Q. You acknowledge that?

18 A. Yes. They told me they believed it.

19 Q. So on the face of that document you knew that Mr. Kourani
20 had criminal exposure based on withholding information in the
21 first interview, correct?

22 A. Yes, if he lied or withheld information.

23 Q. I'm referring here to Government Exhibit 402, to paragraph
24 5(b). Would you take a look, please.

25 A. Yes, 5(b).

1 Q. That reads, "Our government wants him to break down various
2 walls with important information." Do you see that?

3 A. Yes.

4 Q. When you wrote "our government," you were referring to the
5 FBI, right?

6 A. Yes.

7 Q. When you wrote "him" you were referring to Kourani?

8 A. Yes.

9 Q. By "break down various walls," you were referring to the
10 fact that the agents had told you that they felt during the
11 first interview that he had intentionally withheld some
12 information?

13 A. No, I don't believe that.

14 Q. That's not what "break down various walls" meant?

15 A. There were walls between him and them. The question was
16 information that he would know about other people in the United
17 States that might be helpful to them that they didn't under-
18 stand or have knowledge of. My understanding was that's a
19 reference to the whole purpose of why he was talking to them.
20 He had knowledge based on his experiences that might be helpful
21 to them about Hezbollah's people and operations in the United
22 States, and he wanted to share it.

23 Q. It was information that he failed to provide in the first
24 interview, correct?

25 A. No, I didn't say he failed to provide. It says there they

1 want him to break down various walls.

2 Q. They wanted him to provide the complete truth?

3 A. Yes. This was the first of our five meetings, yes.

4 Q. In this document you wrote that you understood that agents
5 took the view that he had not provided the complete truth.

6 A. Where does it say that?

7 Q. That was not your intention when you wrote --

8 A. Just show me where I said that.

9 MR. SCHACHT: Objection.

10 MR. BOVE: I'll move on.

11 THE COURT: Objection to what? The witness's
12 statement or the question?

13 MR. SCHACHT: Both.

14 THE COURT: Overruled.

15 Q. You testified yesterday that confidentiality was crucial to
16 the communications you had with the FBI, right?

17 A. Yes.

18 Q. Yet the word "confidentiality" appears nowhere in
19 Government Exhibit 402, does it? Just yes or no.

20 A. I'm looking at it. You said nowhere in the document. The
21 word is not there.

22 Q. You also testified yesterday that another crucial part of
23 this document from your perspective was the fact that Mr.
24 Kourani was not a target, right?

25 A. Yes.

1 Q. The word "target" does not appear in that document,
2 correct?

3 A. Yes.

4 Q. After you presented this document at the second meeting,
5 you never referred to it again during your interactions with
6 the FBI, correct?

7 A. I referred to it always. This was the premise upon which
8 every meeting took place.

9 Q. It is your testimony today that you referred to this
10 document in every meeting that you had with the FBI?

11 A. I didn't have the document in my hand, but we discussed
12 every time the fact that it's been agreed he's committed no
13 crimes and faces no prosecution. It's not a plea negotiation
14 because of that. He's not seeking any kind of immunity or
15 protection because it has already been agreed he has committed
16 no crime. That came up every single session.

17 Q. That is your testimony today?

18 A. Yes.

19 Q. You failed to mention yesterday that you began each and
20 every meeting with the FBI by conveying that statement?

21 A. I don't think I said at the beginning of every meeting, but
22 throughout each meeting that came up, constantly.

23 THE COURT: How come it is not listed in paragraph 4?
24 You write, "All he wants for his cooperation is protecting his
25 family," and five instances are listed.

1 THE WITNESS: You mean why it doesn't say confidential
2 or why it doesn't say --

3 THE COURT: Why not the simple statement, I want a
4 commitment that what I told you won't be used against me?

5 THE WITNESS: The answer is I didn't think that was
6 necessary given our understanding of what I had written here.

7 Q. You know how to confront members of law enforcement right?

8 A. Would you repeat that?

9 Q. You know how to confront law enforcement personnel,
10 correct?

11 A. I guess so. I know how to talk to them. Is that what you
12 mean?

13 Q. No. I mean if you wanted to be confrontational with
14 Special Agent Costello with respect to whether or not he agreed
15 to the terms of Government Exhibit 402, you could have,
16 correct?

17 A. Yes, especially if he suggested he didn't agree with it.
18 But I always understood he did. There would be no reason to
19 confront somebody who didn't disagree with it.

20 Q. Yet all Special Agent Costello said to you about this
21 document was "thank you"?

22 A. No. That's the first time I gave it to him. The substance
23 of this document was a given, at least in my circumstances
24 talking with him and with the other agent every single time.
25 Look at this. A big part of it was discussing --

1 Q. If I can stop you right there. You agree that what you
2 just said, if it were true, would be a pretty critical fact,
3 right? That you had presented these claims at the beginning of
4 every meeting with the FBI, that would be a critical fact to
5 resolve this motion, right?

6 A. Yes.

7 Q. It is not in your declaration, correct?

8 A. I don't remember, but it probably isn't.

9 Q. You did not say that yesterday, did you?

10 A. I don't remember what I said yesterday about this.

11 MR. BOVE: Nothing further, Judge.

12 THE COURT: Redirect?

13 MR. SCHACHT: Very briefly, your Honor.

14 **REDIRECT EXAMINATION**

15 BY MR. SCHACHT:

16 Q. Mr. Denbeaux, do you recall, during the five meetings was
17 there ever a time when the topic of Mr. Kourani's citizenship
18 came up?

19 A. Yes.

20 Q. Do you remember roughly which meeting that was? Do you
21 recall that?

22 A. No, I have no idea. It may have come up more than once. I
23 don't remember.

24 Q. Prior to that discussion about the citizenship, was there
25 anything at all said by you to the agents, if you recall?

1 A. I don't recall.

2 MR. SCHACHT: No other questions.

3 THE COURT: Thank you very much, Mr. Denbeaux.

4 (Witness excused)

5 THE COURT: Mr. Schacht?

6 MR. SCHACHT: Your Honor, the defense would call Ali
7 Kourani.

8 ALI KOURANI,

9 called as a witness on his own behalf,

10 having been duly sworn, testified as follows:

11 THE CLERK: Please state your full name and spell your
12 full name slowly for the record.

13 THE WITNESS: Ali Kourani. A-L-I, last name
14 K-O-U-R-A-N-I.

15 THE COURT: Before Mr. Kourani begins, would you state
16 for the record, Mr. Schacht, what is important for a witness
17 who is a defendant to know before he testifies.

18 MR. SCHACHT: It is extremely important for any
19 witness who is a defendant to know before he testifies that he
20 is under oath to tell the truth and he must tell only the
21 truth.

22 THE COURT: He has his privilege against self-
23 incrimination.

24 MR. SCHACHT: He has a constitutional right against
25 self-incrimination, and he does not need to testify or say

1 anything at all if he does not want to.

2 THE COURT: Because his silence can be used against
3 him.

4 MR. SCHACHT: His silence cannot be used against him
5 and you cannot draw any adverse inferences against him if he
6 did not want to testify.

7 THE COURT: But if he does want to testify, he can be
8 treated like any other witness and cross-examined?

9 MR. SCHACHT: Yes.

10 THE COURT: Prior history can be brought in to impeach
11 his credibility, right?

12 MR. SCHACHT: Yes, prior criminal history can in some
13 circumstances be brought in.

14 THE COURT: Are his statements available to the
15 prosecution at a trial of the criminal issues?

16 MR. SCHACHT: My intention here is to ask him
17 questions on direct examination about the issue of
18 voluntariness primarily, with some background questions about
19 his life.

20 THE COURT: If you open the door --

21 MR. SCHACHT: I'm not planning to open the door.

22 THE COURT: The government then can't ask him about
23 guilt or innocence.

24 MR. SCHACHT: I'm not planning on eliciting any
25 questions about --

1 THE COURT: Just so you know. If you don't open the
2 door, the government cannot go into that area, right?

3 MR. SCHACHT: Thank you, your Honor.

4 Do you understand all that, Mr. Kourani?

5 THE DEFENDANT: Just the last part, the last thing.

6 MR. SCHACHT: The last part you did not understand?

7 THE DEFENDANT: Yes.

8 THE COURT: If your lawyer wanted to bring out that
9 you are innocent of the crimes, the government can ask on
10 cross-examination anything it wants to about your alleged
11 criminal acts. But if your lawyer confines his questioning
12 only to the areas of the voluntariness of the statements that
13 you gave to the government, the government cannot do that. Do
14 you understand?

15 THE WITNESS: I understand.

16 THE COURT: Similarly, if you volunteer your
17 innocence, you open the door to cross-examination on these
18 issues by the government. Do you understand that?

19 THE WITNESS: I do understand.

20 THE COURT: You do or you don't?

21 THE WITNESS: I do understand.

22 THE COURT: Go ahead, Mr. Schacht.

23 MR. SCHACHT: Thank you, your Honor.

24 DIRECT EXAMINATION

25 BY MR. SCHACHT:

1 Q. How old are you, Mr. Kourani?

2 A. I'm 33 years old.

3 Q. Have you ever testified in court before in your life?

4 A. No. This is the first time.

5 Q. Are you taking any drugs, alcohol, medication right now?

6 A. I'm taking medication for anxiety and depression.

7 Q. The medication that you are taking for anxiety and
8 depression, does that medication affect your ability here today
9 to understand what's occurring?

10 A. It doesn't affect my ability. Just in case I need a break,
11 I'm going to ask for it.

12 THE COURT: Just ask for it and you'll get it.

13 Q. Could you please tell the judge how far you went in school.

14 A. I have two degrees. One degree is in biomedical
15 engineering, and the second degree is a Master's degree in
16 business management, concentration in project management.

17 Q. In what country and city did you get those degrees?

18 A. Both of them from New York City, City College uptown and
19 Kellogg graduate school.

20 Q. Are you married today?

21 A. Yes, I'm still married.

22 Q. What is your wife's name?

23 A. Laila Abady.

24 Q. Where does she live now?

25 A. She lives in Canada.

1 Q. Do you have any children?

2 A. Two kids.

3 Q. Where do they live?

4 A. Both of them there. As far as I know, they are there.

5 Q. Do you have brothers and sisters?

6 A. Two brothers and two sisters. All of them live in Lebanon
7 with my family.

8 Q. When you say with your family, does that mean your parents?

9 A. Yes, both my parents, dad and mom.

10 Q. Going back to about the year 2012, do you recall having any
11 unusual interactions with anyone from the American government?

12 A. Yes. The NYPD intelligence usually, occasionally. They
13 visited me at my residence, knocked on the door out of the
14 blue, asked questions about Hezbollah, asked questions about
15 other Lebanese people in the community that lives in the States
16 or outside the States.

17 Q. For approximately how long did that go on with the New York
18 City Police Department intelligence?

19 A. As far as I remember, I remember the first time after I
20 came. It happened before in 2009, but personally it started
21 happening in 2012. They visited me twice in the summertime and
22 regularly after that. They would do a checkup every few
23 months.

24 Q. At some point after 2012 did you ever have conversations
25 with anybody from the FBI?

1 A. I don't recall having any conversation with the FBI. I
2 don't know if --

3 Q. I don't mean in 2012. I mean any time since 2012.

4 A. In the period after 2012 it really happened that I start
5 having complications with some of the immigration things. One
6 of the things, I applied for my wife.

7 Q. You applied for your wife for what?

8 A. For residency. She was already pregnant, and I applied for
9 her to get her residency in the States.

10 Q. Do you recall what year that was?

11 A. It was 2013, less than a year after our marriage. She was
12 pregnant at that time. The application was going smoothly.
13 Everything was going smoothly. Just a week before her
14 interview, our interview, the interview was canceled. I recall
15 after that, when we started inquiring about it, they said that
16 she is on background check or security clearance check. Her
17 residential application took almost four years, until she left
18 in August of 2016.

19 Q. Between 2012 and 2016 did you ever have any unusual
20 experiences at airports?

21 A. It was all unusual experiences at the airports.

22 Q. What were your unusual experiences at the airports?

23 A. I'm not allowed to get my boarding pass from the machines.
24 Every time I went to get the boarding pass, they had to call
25 Homeland Security to issue me a boarding pass. Sometimes I

1 missed my flight.

2 I do remember one time in 2015, early 2015 -- no, late
3 2014-early 2015 I was leaving from Newark and I was supposed to
4 take my wife with me to Lebanon because we just had our first
5 baby. Basically, immigration refused to give her a permit so
6 that she could go and guarantee her coming back to New York.
7 In the airport, I remember very well, they always say I will be
8 randomly selected for extra security check. I was traveling
9 with my baby, the 1-year-old at that time. I remember that. I
10 had take off her clothes and even take off her diaper just to
11 make sure that -- you know.

12 Q. Did any of your other relatives have any unusual
13 immigration problems of that sort?

14 A. My mom, she used to come back and forth. And my sister, I
15 don't recall that they encountered that. But my brother, my
16 younger brother, he filed an application for his citizenship,
17 and all of a sudden his naturalization process went into, like,
18 without reply.

19 Q. Just so it is clear, because you mentioned you had a few
20 brothers, what brother by name are you referring to?

21 A. I'm referring to my younger brother, Moustafa.

22 THE COURT: How many brothers do you have?

23 THE WITNESS: Two brothers, your Honor. I have one
24 older than me and one younger than me, seven years younger than
25 me.

1 Q. Going ahead to about April 1st of 2016, do you recall that
2 day in particular?

3 A. Yes, I recall it very well.

4 Q. Why do you recall that day well?

5 A. April Fool's.

6 Q. What happened on that day?

7 A. On that day I just got back from Chicago. I was being a
8 district manager for a cellular company. I just got back to
9 New York so that I would move my family to Chicago because I
10 was having a decent, stable job over there. I was going to
11 Starbucks, grab my coffee, grab my cake, and an FBI agent,
12 actually an agent, I think his name was Gary or Greg, he
13 stepped forward, showed his badge, said I'm an FBI Special
14 Agent, I would like to talk to you. I said sure.

15 He took me to the McDonald's which was next door. We
16 sat. And there was another two agents sitting there. I'm
17 like, how could I help you? Out of the blue he said, oh, we
18 know your affiliation with Hezbollah. You most likely have the
19 wrong person or the wrong guy.

20 THE COURT: You said that?

21 A. Yes, I said that. Then he was like, no, we are sure that
22 you have an affiliation with Hezbollah. I was like, could you
23 interpret that? What do you really mean by that? Do you mean
24 that I have family members that are Hezbollah or what? He's
25 like, no, you have a connection with Hezbollah.

1 THE COURT: He said what?

2 THE WITNESS: He asked, no, you have connections with
3 Hezbollah. I'm like, what's that connection? Then he took the
4 conversation a little bit easier, stating like I graduated,
5 what high school I graduated from, saying things about my
6 family members, just like normal things, like what I'm doing
7 right now and what's going on in my life, all of that.

8 Q. How did that meeting end, April 1, 2016 meeting?

9 A. I told him I don't feel comfortable to keep talking to you
10 guys, especially the circumstances where we are sitting in a
11 public place. Then he handed a file to me and he said, inside
12 that file there is a phone, a burner phone, a flip phone.

13 THE COURT: A cell phone?

14 THE WITNESS: A cell phone.

15 A. He was like, I'm going to reach you at that phone number.
16 Make sure that no one knows that you have that phone or you
17 don't call anyone from that phone.

18 Q. Did you agree to take that phone from the FBI?

19 A. Actually, I have no choice. He just passed it, left it on
20 the table, turned their backs and left.

21 Q. But you took it with you?

22 A. I took it with me, yes.

23 Q. Okay.

24 A. Later that day he told me, like, could we arrange another
25 meeting in a more private place? He's like, I'm going to ask

1 you random questions, your help is really appreciated. I
2 didn't mind that.

3 Q. Then you agreed to meet them in a more private place?

4 A. Exactly.

5 Q. About how long after the April 1st meeting was your second
6 meeting with the FBI?

7 A. It was the same day.

8 Q. It was the same day?

9 A. Yes, in the afternoon.

10 Q. Where did you meet them?

11 A. It was at a hotel in Flushing.

12 Q. In Queens, New York?

13 A. Queens, New York. It was very close to my residence where
14 I used to live.

15 Q. You met the same agents there that day?

16 A. Yes. He met me around one of the corners. We walked
17 around. He took me to the hotel, in the hotel to other agents,
18 the same agents that were sitting there, and he started asking
19 me questions.

20 Q. How long were you with them at the hotel in Queens that day
21 roughly?

22 A. I think about like an hour.

23 Q. Did you have any further contact with the FBI after that?

24 A. One of the things he said -- I already mentioned to him,
25 like I'm packing my stuff, I'm leaving to Chicago, I'm not

1 staying in that apartment anymore because the rent will be due,
2 I already have an apartment in Chicago so I'm moving my family
3 there. He kept mentioning that no, you're not going anywhere,
4 and a smiling face. I even mentioned to him, like, what's this
5 all about. At one point I felt like it's some sort of an April
6 Fool thing.

7 Q. Did you actually move to Chicago, to the Midwest?

8 A. I did.

9 Q. How long after that?

10 A. Just the second day, if I'm not mistaken. The second day,
11 early morning.

12 Q. When, if at all, was your next contact with the FBI?

13 A. Within the same week after I get there, he called me, he
14 checked on me. He called me actually: did you get there
15 safely, how is your family, how is everything, would you mind
16 if we meet in Chicago. I'm like, no, I don't mind.

17 Q. When you say he called you, did he call you on that cell
18 phone that the FBI gave you?

19 A. Exactly.

20 Q. Did you meet with them in Chicago?

21 A. Yes, I did.

22 Q. Roughly when was that?

23 A. Within a week from April 1st.

24 Q. How did the second meeting go? I should say the third
25 meeting.

1 A. It could be the third meeting. I recall some of the
2 points, some of the headlines: to be straightforward we want
3 you to be an informant for us, we want you to work for us. He
4 brought up the name of Hassam Kourani. Hassam Kourani is a
5 second cousin of mine, first cousin of my wife.

6 Q. Regarding that person, they wanted you to provide some
7 information about this relative of yours?

8 A. Hassam Kourani was a member of Hezbollah back in the '90s.
9 He decided to change his life. He went to Brazil. From Brazil
10 he went to London. From London he came to the United States,
11 got married. He has kids. Maybe his past kept following him.
12 Within his community, he knows everything. We know he was a
13 Hezbollah fighter back there. So the FBI or the U.S.
14 government kept questioning him.

15 He was like, are you aware of those facts? I was
16 like, yes, I'm aware of those facts. How are you aware of
17 those facts? I heard about it. I heard people talking. Did
18 he mention that to you personally? I'm like, no, he never
19 mentioned that to me personally. Do you reach out to him? No.
20 Do you have his phone number? Can you get me his phone number?
21 I'm like, I'll try to do that.

22 He was like, what do you think if Hassam Kourani stays
23 in the United States, what will happen to him? I'm like, what
24 do you mean by that question? He was like, with his
25 background, his past experience, of his history, do you think

1 he will still live in the United States? I'm like definitely
2 he will still live in the United States. He was like, why do
3 you think that? Because, I'm like, he changed his life. He
4 adopted a new life.

5 And he confirmed it to me. He was like, if he
6 cooperated with us, given us what we need, yeah, he would have
7 been here, he would have had his residence, his citizenship,
8 and no one will mess with him, no one will turn his life upside
9 down.

10 THE COURT: This is your cousin?

11 THE WITNESS: It's a second cousin of mine, your
12 Honor.

13 Q. And?

14 A. Then he goes like, do you know of anyone else that has the
15 same story? I'm like, yeah, most of the people that came in
16 the '90s from Lebanon almost have the same story. They were
17 part of the militia. Lebanon went through a civil war for 15
18 years. Everybody was fighting everybody. It was a war machine
19 over there. Who doesn't have experience?

20 Q. Did you have any more meetings with the FBI --

21 A. To interrupt your question, I mentioned a name for him.
22 This guy, he lives here in the States. I gave him valuable
23 information about it, and he looked like he knew about it. And
24 that guy never been prosecuted.

25 Q. Did you have more meetings with these same agents in

1 Chicago?

2 A. I think when they came there I met them on two consecutive
3 days, one day in a hotel, the other day in a restaurant. I
4 think in the restaurant we just sat down, had lunch. It was
5 basically friendly.

6 Q. What year was this all?

7 A. 2016, April 2016.

8 Q. At any of these meetings with the FBI in Chicago did the
9 FBI agents offer you anything?

10 A. They offered a lot of things.

11 Q. What did they offer to you?

12 A. That no one knows about those meetings, no one will ever
13 know about those meetings. That's the first thing.

14 Q. What's the second thing?

15 A. They offered me money.

16 Q. How much money did the FBI offer you?

17 A. I don't know how much is it, but it was a bundle of
18 hundreds. I refused it. I'm like, why would you give me that
19 money? They was like we are interrupting you from your work.
20 I was really busy doing whatever I was doing at that time. And
21 for your services, for your help. I said to him I didn't do
22 anything special. I considered that my civil duty.

23 Q. How many times did they offer you money?

24 A. They kept insisting. I refused it the first time. I
25 recall very well that after I left the hotel, Gary, the bald

1 guy -- I don't know what was his real name, I had never seen a
2 badge -- he followed me to the hotel entrance and he offered me
3 the money again, and he insisted on taking it. I refused the
4 take it.

5 Q. Was there anything else that those agents offered you in
6 Chicago?

7 A. Definitely. They offered me to work with them. They said
8 it would stay confidential, no one will know about it, you are
9 highly educated, you are respected within your community,
10 nobody will suspect that you are working for the FBI.

11 Q. Did you agree to work with the FBI in 2016?

12 A. No, I refused. I said if you want me to work for the FBI,
13 give me a job application. That's how I'd do it.

14 Q. In 2016 --

15 A. One of the reasons I just mentioned I would like a job
16 application, I was like I could be your boss. I know two
17 different languages, I have a good background, I'm very well-
18 educated.

19 Q. That was the end of your meetings more or less in 2016?

20 A. The last meeting I remember was in a park. We came to the
21 park, the three of them. We were sitting at a table. On one
22 of the times I met with Gary alone, we went to the botanical
23 garden. We were talking friendly things. They still offered
24 me another \$2,000 in the park.

25 They said there is a legal document. You could show

1 it to a lawyer. That shows that whatever you talked about or
2 whatever help you provide, we'll be on your side for your
3 safety. They offered some immigration benefits. They were
4 like, we're aware of your wife. She is not able to get her
5 green card. They can make even an immigration agent call me
6 and schedule an appointment for me. In that meeting also they
7 offered -- the woman that was with them, she said, we could pay
8 you a thousand dollars a month if you work with the FBI.

9 I put all the offers down. I didn't feel like I could
10 trust them. I was already having a decent job, a stable
11 family.

12 Q. Regarding the stable family, you have heard here, have you
13 not, the testimony yesterday about problems that occurred in
14 your family? You heard that testimony, right?

15 A. Yes.

16 Q. Could you please tell the judge when it was that the
17 problems that you started having with your wife began.

18 A. I would like to restate more things about those meetings
19 first of all.

20 THE COURT: Wait for the question. He asked this
21 question. Now he is asking about when the problems with your
22 wife started.

23 THE WITNESS: Your Honor, what I want to state about
24 those meetings, I would like to finish the topic.

25 MR. SCHACHT:

1 Q. I can circle back to that. Please answer the question
2 first about your wife.

3 A. Yes, there was an argument between me and wife.

4 THE COURT: When?

5 THE WITNESS: July 26, 2016.

6 Q. As a result of that argument, what, if any, problems did
7 you begin to have with her family and with her?

8 A. It was an argument between a husband and his wife. She
9 wanted to go to Canada with the kids. I refused to do that and
10 took a vacation actually. She left to her mom. Her mom was
11 in -- she came back from a visit, from Canada, and she was with
12 her cousins. Her cousins are all involved in militia
13 activities.

14 THE COURT: All involved in what?

15 THE WITNESS: All involved in militia activities.

16 MR. SCHACHT: The militia.

17 A. I sent her a text message. I wasn't at home after that.
18 When I came back, I sent her a text message: where are you at?
19 She says, I'm at my cousin's house. I'm like, I'm coming to
20 pick you up. She was like, you can just come and pick up your
21 kids. I wasn't on good terms with my mother-in-law. She came
22 out with the kids. She was really harsh on the kids. She even
23 held my 10-month son from his arm and threw him in the car.
24 She was very aggressive. She is a drug addict.

25 Q. These problems that you were having with your wife and your

1 mother-in-law, how did that affect your thinking about your
2 family and your children at that time?

3 THE WITNESS: They came to my house that same day.
4 Within two minutes, as soon as they get to the house, as if
5 they were fucking -- I'm sorry for the word -- as if they were
6 really prepared to do whatever he wanted to do. 20, 30 guys
7 with guns surrounded my house yelling, screaming, asking for my
8 head. Then they started shooting at the house. They were even
9 calling me the American traitor.

10 This is as a result for the FBI agents going after my
11 mom and telling her your son is a dangerous guy and going to my
12 cousins and telling them the same thing, while at the same time
13 I was still living in the United States. Obviously, those
14 people thought if the FBI is after him and he is a dangerous
15 person, why is he still in America?

16 Q. What was the time frame, if you recall, that the FBI spoke
17 to your relatives about you?

18 A. The same time, after I refused being an informant for them,
19 they went, they stopped my mom at the airport. Then they went
20 after my cousin. I don't know who else they talked to.

21 THE COURT: Who is "they"?

22 THE WITNESS: FBI agents.

23 Q. Did there come a time when you had a problem with the
24 American embassy in Beirut?

25 A. The first day they attacked my house two times. People in

1 the village interfered. My dad is a very respectful man. He
2 is not a trouble-maker.

3 THE COURT: Who is the "they" here?

4 THE WITNESS: My dad.

5 THE COURT: The first "they," "they attacked my
6 house," who is they?

7 THE WITNESS: The militia.

8 THE COURT: Where? In Lebanon?

9 THE WITNESS: Yes, which are my in-laws' cousins.

10 Q. The same day --

11 A. The same day I sneaked myself out of the village. They
12 were doing checkpoints. They were still looking for me. They
13 were still threatening me. I didn't take my kids out of my
14 family's house because my family suggested that if they are
15 still attacking our family house, they have to give the kids
16 back to calm things down.

17 The second day or the third day I went to the American
18 embassy and I spoke to the consulate over there. I told the
19 consulate I'm having trouble with both militias, all I'm asking
20 you for is use your connection with the Lebanese government to
21 send the police or the army -- I know you have connections --
22 to get my kids out of the village and I want to leave the
23 country.

24 Q. Are your children U.S. citizens?

25 A. Both of them are U.S. citizens. Both of them were born in

1 New York.

2 Q. At that time you were a U.S. citizen?

3 A. I was a U.S. citizen. I am still a U.S. citizen.

4 Q. What, if anything, did the consul say to you?

5 A. The consulate took my -- she asked me for my passport. I
6 gave her my passport. Then she left for like 15, 20 minutes.
7 She came back and she was like, you know, the department of
8 state issued a warning that U.S. citizens should not come to
9 Lebanon and you're not supposed to be here, I could do nothing
10 to help you.

11 In addition, she said, I have bad news for you. I'm
12 like, what's the bad news? She was like, I have to confiscate
13 your passport. I'm like, this is my way out. I came here for
14 help. Now you're taking my passport? What if I got my kids
15 out of the village tomorrow and I want to leave this country,
16 how am I supposed to leave? And I insisted. I'm like, I'm not
17 leaving until you figure this thing out. At that point she
18 said like, all we have to do is reach to the FBI. I'm like, do
19 you have a number for them? She goes like, no, you should have
20 the number.

21 Q. What happened next?

22 A. She said, we will call you and let you know when you could
23 get your passport back.

24 Q. Did she eventually call you?

25 A. No. The second week I called. I don't know if it was her

1 or some member in the consulate said that you could come the
2 next week and have your passport or we'll talk about your
3 passport.

4 Q. To back up a second, how long were you then in Lebanon
5 between the time that they confiscated your passport and they
6 called you to come back to the embassy?

7 A. I don't know.

8 Q. Roughly.

9 A. You mean after that conflict?

10 Q. Yes. After she told you she was confiscating your
11 passport, how long were you without your passport?

12 A. For like a week.

13 Q. Did you call the FBI or did the FBI call you?

14 A. I didn't have a number for them, and I'm not that crazy to
15 call the FBI from Lebanon.

16 Q. How was it that you were able after approximately a week to
17 get your passport back? How did that come about?

18 A. As I told you, she scheduled an appointment for me and she
19 said to come to the embassy at that date at that time.

20 Q. Did you do that?

21 A. I did.

22 Q. What happened when you went back to the embassy?

23 A. The special agent that was interviewing me in Chicago was
24 there. Special Agent Costello -- I didn't know his name, that
25 was the first time I meet him -- he was there. And there was

1 another agent. They said he is from like a top echelon thing
2 in the government. He was there too. They took me to a side
3 room.

4 Q. Did you talk to them?

5 A. Yes. I do recall most of the time that the special agent,
6 he said he is from a top echelon of the government, he was
7 sitting there with me in the room. The other two agents, most
8 of the time they were not present or they weren't present in
9 the room. The first thing I said to him, I need my passport
10 back.

11 Q. Did they agree to give you your passport back?

12 A. He said, I have your passport. He didn't say he will give
13 it to me.

14 Q. What happened then?

15 A. He asked me, who do you know that's a Hezbollah member? I
16 said, my brother Kassem Kourani is a Hezbollah member, what
17 does that have to do with me. He asked me about other people.
18 Whatever I know I said. Then he goes, who is your contact?
19 Who is your contact with Hezbollah. I said I don't have a
20 contact with Hezbollah.

21 Q. Roughly for how long were you talking to them,
22 approximately?

23 A. Like 45 minutes.

24 Q. At the end of the meeting, did you get your passport back?

25 A. He was very reasonable. He wasn't biased. I told him

1 there was a car following me all the way before I get to the
2 American embassy. I said to him it could be the last time that
3 they see me. I remember very well I was wearing a Guess shirt.
4 He goes like, that's like a Guess shirt. I was like, yes, it
5 could be the last shirt I wear. He was like, no, you'll be
6 okay. He was like, no, you're going to be okay. He handed me
7 back my passport.

8 Q. Did you stay in Lebanon or did you leave?

9 A. I booked a ticket as fast or as close as I could get it. I
10 was about to board the airplane when they said that they got a
11 call from Homeland Security that I can't board that flight, all
12 I have to do is reach back to the embassy.

13 Q. Did you reach back to the embassy?

14 A. Yes. I already had the email of the consulate.

15 Q. Eventually did you get out of Lebanon and back to the
16 United States?

17 A. It took me another two, three weeks, even more, to get out
18 of Lebanon. I got here back in September 12, 2016.

19 Q. When you came back to the United States in September of
20 2016, did you have a job?

21 A. I already lost my job.

22 Q. Did you get a new job?

23 A. When I first get to the airport, as usual, I have a hard
24 time. After I get out of the checkpoint, I was about to grab
25 my bags, Special Agent Keri, she was there. That was the first

1 time I meet her. And there was the other agent, I met him the
2 second time. He was the one who brought me here to court when
3 I got arrested.

4 They took me to a side room, a closed room. The first
5 thing she said, we are not going to question you, we are not
6 going to interrogate you, you are just going to come back to
7 the United States like that. I'm like, what's the deal with
8 it? I came.

9 Q. You left the airport after talking to them, yes?

10 A. After receiving several threats from her. She said, this
11 is the last time, this is the last time that FBI agents will
12 reach for you to have your cooperation, to be an informant.
13 She asked me about the kids, and she said, you will never see
14 them again. She said I will never get any job because they
15 already went to my previous job and they said to my employer
16 that I'm a dangerous guy.

17 Honestly, you know, to flee from the situation that I
18 was in, I was so happy to be back.

19 Q. Were you able to get a new job?

20 A. I have good credentials. I'm really good at what I do.

21 Q. Is that a yes or a no?

22 A. It was a bit hard for me. Like one of the things when I
23 get back to my previous job, I already had signed a contract
24 with them for a whole year, a contract for one year. They were
25 supposed to hire me for a whole year based on stable

1 commission, stable salary.

2 But after the encounter with the FBI and after I'm not
3 being able to return at the right time, he said that that
4 position was taken, I have no option for you. He offered me
5 another job that is half of what I was being paid. It's
6 another way of telling me that you're fired or I won't let you
7 work for me anymore.

8 My apartment was evicted during that time. I forgot
9 to mention that. He asked me for it.

10 Q. When you came back in September 26, 2016, were you living
11 in Chicago or in the New York area?

12 A. I stayed here for a week. I already had my connections
13 with Weyerhaeuser companies. So I reached out to some of them
14 and one of them offered me a job.

15 Q. Where was the job?

16 A. The job was supposed to be in Green Bay, Wisconsin.

17 Q. Did you go to Green Bay, Wisconsin?

18 A. At first I went to Chicago for two or three weeks, moved my
19 stuff out of the storage facility.

20 THE COURT: Into an apartment?

21 THE WITNESS: Into an apartment I rented in Green Bay,
22 Wisconsin.

23 Q. When was the next time that you spoke to any FBI agents?

24 A. Agent Keri, she said, this is your last chance, you will
25 never get a job again, we'll turn your life upside down.

1 Q. That was at the meeting in Newark Airport you are talking
2 about?

3 A. Exactly. I never encountered them again, but I got an
4 email from Canadian police, from one of the Canadian police,
5 mounted police. I don't know what they call them.

6 Q. It doesn't matter. Some Canadian police contacted you?

7 A. Agency, yes, stating that they would like to call me. I
8 never responded to their email. Then he called me.

9 Q. Who is he?

10 A. An agent for the Canadian police. At first he started like
11 friendly, a friendly conversation. After that he was like, do
12 you know the FBI were asking about you? I was like, yes, I
13 just met them a few weeks ago when I got back from Lebanon.
14 They have my information, my phone number, my email, my
15 address, you don't need to tell me that. I don't know if he
16 asked me for -- he asked to have another conversation with him
17 or another call. I'm like, there is no need for that.

18 THE COURT: Who said that?

19 THE WITNESS: The Canadian policeman.

20 THE COURT: He said that or you said that?

21 THE WITNESS: The Canadian police agent, he asked me,
22 your Honor, if he could call me back again, if he could reach
23 out.

24 THE COURT: Who said there is no need for that?

25 THE WITNESS: I said that.

1 Q. When was this, roughly, when you had this contact with the
2 Canadian authorities?

3 A. I think it's like early October, late September or early
4 October.

5 Q. What year?

6 A. 2016.

7 Q. Between September 2016 and March 2017, did you have any
8 more contact with the FBI in that time period?

9 A. At one time they went to my wife in Canada. My wife, she
10 told me about it. Then they went another time in February.
11 She told me that they are coming.

12 THE COURT: Keep your voice up, please.

13 Q. February 2017?

14 A. Yes, that's right.

15 Q. Do you recall the first time you spoke to Mark Denbeaux?

16 A. First time I spoke to him was either December or November
17 of 2016.

18 Q. What was your reason that you wanted to get a lawyer?

19 A. My wife with her family, they were putting pressure on me.
20 I didn't know anything about my kids.

21 THE COURT: Can we take a short break?

22 MR. SCHACHT: Yes, your Honor.

23 (Recess)

24 THE COURT: I remind you, Mr. Kourani, that you remain
25 under oath. Mr. Schacht, you may continue to examine.

1 BY MR. SCHACHT:

2 Q. Before we took that break, I had asked you what was your
3 thought process that caused you to seek out a lawyer.

4 A. I was having a hard time with my wife's family concerning
5 the kids' visitation or even talking about the kids. My
6 daughter was even diagnosed with mild autism at that time.
7 Where they live, that is all the way in north Canada. As Agent
8 Keri said to me, it's like nowhere, a snowy desert. So I
9 didn't want my kids to be raised there.

10 Q. How did you think a lawyer might be able to assist you?

11 A. One of the other things I would like to mention here is
12 that --

13 THE COURT: Just answer questions.

14 A. What is your question again?

15 Q. How did you think a lawyer could help you with what your
16 concerns were?

17 A. I needed legal advice, like what could I do about it.

18 THE COURT: About your children and custody?

19 THE WITNESS: Have custody or even my children back
20 here, concerning the safety of my kids. I don't want my kids
21 raised by people who try to kill them.

22 THE COURT: We understand. Go ahead.

23 Q. I'm not asking you what you said to Mr. Denbeaux privately.
24 But as a result of speaking to Mr. Denbeaux, what, if anything,
25 did you and he decide to do as a strategy? Was Mr. Denbeaux

1 going to do anything as a result of your conversations with
2 him?

3 A. There was several suggestions on the table. One of them
4 was I will try to convince him to bring the kids over here.
5 Once the kids gets here because they are American citizens,
6 born here in the U.S., I'll get a court order to have them
7 raised here in the U.S.

8 Q. What was the other possibility?

9 A. That we go to Canada and bring them here.

10 THE COURT: Denbeaux told us that he is not a divorce
11 lawyer or a family lawyer. Did you know that when you went to
12 see him?

13 THE WITNESS: Yes, I did know that.

14 THE COURT: He is not a family lawyer, he is not a
15 divorce lawyer, he is not involved in matters of custody of
16 children.

17 THE WITNESS: Yes, I am aware of that, your Honor.

18 THE COURT: Were you aware of that at the time?

19 THE WITNESS: Yes, I was aware.

20 THE COURT: So there was a different reason why you
21 went to Denbeaux?

22 THE WITNESS: I still know that he is a law professor
23 and has massive connections, so he could really help me out
24 with that.

25 Q. Did you follow either of those two things, of either going

1 to Canada to bring them back and get a court order here? Did
2 you do those things or no?

3 A. I wasn't able to convince her to bring my kids over here
4 because her family in Lebanon were still putting pressure on
5 me. If we go to Canada, I stated to him that the FBI was
6 giving me a hard time, and one of the reasons that I can't go
7 to Canada was that my wife was trying to give me a Canadian
8 green card and the application was rejected, and the Canadian
9 authorities said that I could not visit Canada.

10 Q. As a result of that, did you have Mr. Denbeaux contact the
11 FBI?

12 A. No, not as a result of that. I think it was after two,
13 three weeks I was still under pressure. My family in Lebanon
14 were still getting threats. They were still stating to them
15 that we know that your son went to the United States embassy,
16 all of that kind of stuff.

17 Q. When you say during a two-, three-week period you were
18 getting these indirect threats, what time period are you
19 talking about?

20 A. From the time I came back from Lebanon, which is September
21 12 to February.

22 Q. At some point then did Mr. Denbeaux contact the FBI, as far
23 as you know?

24 A. Yes, based on my records.

25 Q. When was that, roughly?

1 A. That was actually the last week of February 2017.

2 Q. What was your hope in your mind of what the FBI might be
3 able to do based on your prior experience?

4 A. Continue where we stopped at last year in 2016, when they
5 offered me whatever they offered. I know they needed my help,
6 and at the same time I needed to stop those harassments.

7 Q. Did there come a time when you had an initial meeting with
8 them?

9 A. Conversations over the phone. I think I went to his office
10 once or twice. And we talked about stuff.

11 Q. Eventually, did you have a first meeting with the FBI?

12 A. Yes, we did.

13 Q. Prior to that first meeting, did Mr. Denbeaux tell you
14 anything about what the rules were about the meeting?

15 A. No, but I assured Mr. Denbeaux that when he first talked to
16 them I want strict confidentiality. I don't want to talk to
17 the previous agents because they looked like they are very well
18 known among the community. I don't want to be seen around
19 them.

20 Q. When you say the community, what community are you talking
21 about?

22 A. Muslim community.

23 Q. At the first meeting, was it different agents or the same
24 agents?

25 A. There were two different agents.

1 Q. At which meeting?

2 A. The first meeting.

3 Q. Who were the agents at the first meeting?

4 A. Joseph Costello and Keri Shannon.

5 Q. Do you have any memory of how the first meeting began?

6 A. Yes. The first thing Mark said to them is that it's not
7 like a proffer agreement. I wasn't familiar with that term at
8 that time. It's not a plea negotiation. He said a couple of
9 things. But what really stuck in my mind that he said to them:
10 whatever my client says here will not be used against him and
11 everything will remain confidential.

12 Q. What, if anything, did Agent Shannon or Agent Costello say
13 or do in response to that?

14 A. They just agreed to it, nodded their head, and accepted
15 those facts. They even assured me that at that meeting only
16 him -- only the two agents and their supervisors know about it.
17 They even stated that the agents that met with me before
18 doesn't even know those meetings are happening.

19 Q. How many hours, more or less, were you with them on that
20 first day?

21 A. Hour, hour and a half, two hours.

22 Q. How did the meeting end?

23 A. Before the meeting ends, after they agreed to whatever Mr.
24 Denbeaux said, I said that before I can be open and
25 forthcoming, I need to ensure the safety of my family and I

1 need my kids back from Lebanon.

2 Q. Break that down for me for a minute. When you say the
3 safety of your family, were you specific about which family
4 members you were interested in?

5 A. Yes. My younger brother Moustafa was still living in the
6 United States. My mother and my younger sister could come back
7 and forth. My sister Laila had an expired green card, so I
8 really needed to renew that. My father had already applied as
9 a citizen and somehow his application was rejected. I needed
10 to ensure that my father and my sister Laila could be granted
11 visas to come over to the United States.

12 I had a negotiation with them that I needed my sister
13 Laila to have her green card renewed, and she was like no, we
14 could not do that because it's already been expired. What we
15 could do for her is issue her a visa, and when she gets here
16 she could file for asylum. Your dad's case is much easier
17 because as soon as he gets here, he is a U.S. citizen, so you
18 could adjust his status.

19 Q. When you say she said that, who are you referring to?

20 A. Both of them actually. It was a conversation between
21 Joseph and Keri. You know, during those meetings, most of
22 those legal terms was coming from Keri.

23 Q. Did you insist on any kind of a time frame or deadline for
24 these safety concerns that you had?

25 A. They stepped over -- yes, I did.

1 Q. What did you say regarding --

2 A. I said I need a time frame.

3 Q. What, if anything, did they say?

4 A. They said concerning the visas, it will take around two
5 months. Concerning the kids -- no. Concerning the visas, they
6 said it will take around two months. I even asked them that I
7 wanted to be able to visit Canada because of the business
8 dispute I have in Canada. Joseph said that within six weeks we
9 could grant you that.

10 Then, when it comes to my kids, he looked at Keri and
11 Keri said, by late summer. I said? Why is it by late summer,
12 what's late summer? Give me a month. She was like, definitely
13 by late August your kids will be here. I'm like, why is it
14 taking that long? I know the FBI from whatever I experienced,
15 they really have the powers to do everything. She said that
16 they have to reach out to the department of state concerning my
17 kids because it's involving two countries. But she said, your
18 kids are born over here, so their first nationality comes
19 first.

20 Concerning my dad's visa, she was like, we have to
21 reach out to the Department of Homeland Security and
22 immigration, ICE, and the process may take time. But they
23 assured me that is the max time. They were like, it could
24 really happen before that.

25 Q. You heard agents Costello and Shannon testify here, right?

1 A. Yes.

2 Q. Did you hear them testify that they repeatedly told you and
3 Mr. Denbeaux that they couldn't make specific promises about
4 help with immigration issues because it was not fully within
5 their control? Did you hear them testify to that?

6 A. Yes.

7 Q. Do you recall them saying to you that or anything like that
8 back then in March-April of 2017?

9 A. I do recall that one of the things that popped up is that
10 it's hard for them concerning my dad. And I'm like, why is it
11 hard? They were like, your dad entered illegally to the United
12 States in 2000. I was a little bit aware of the war at that
13 time. And they start going back and forth. Then I asked for a
14 break.

15 I told Mark, listen, my dad asked for a voluntary
16 departure and he has been outside of the United States for more
17 than ten years. I'm not asking for privilege. I'm asking for
18 what's my right. I'm a U.S. citizen and I have the right to
19 bring my dad over here. I don't want it to feel like they are
20 giving me too much. So let's stop with the crap and make
21 things clear for them.

22 He stepped outside actually and he talked to them.
23 When he came back he was like, since your dad has been outside
24 the country for more than ten years, I don't think it will be
25 difficult, but we still have to reach out for the Homeland

1 Security, for the department of state concerning my kids, for
2 ICE. They mentioned several agencies. But they were sure,
3 they were hundred percent sure that on the side of the FBI this
4 is a done deal, no question about that. And when you asked for
5 a time frame and they gave me a time frame, what else could I
6 do? What other things I could request?

7 Surprisingly, I have to mention it, in the 302, when
8 they talk about the first meeting, when I asked for a time
9 frame, they said, oh, there is no promises. But when I look at
10 Keri's notes, she mentioned those time frames.

11 Q. At the end of that meeting, the first meeting I'm talking
12 about with them in March, was there an arrangement for another
13 meeting?

14 A. They were very thankful. They appreciated I'm forthcoming.
15 They appreciated my cooperation with the government. They were
16 like we are looking for a second meeting. They even during
17 that time called their supervisors one or two times, I don't
18 recall how many times they stepped outside, and they said that
19 they were very happy with what's going on.

20 Q. In the hearing yesterday you saw the text message that Mr.
21 Denbeaux sent to them saying there were no promises, right?
22 You saw that evidence, right?

23 A. Yes, I did.

24 Q. Had you ever seen that text message or did you know that he
25 sent that text message before you saw the discovery in the

1 case?

2 A. No, I wasn't aware of that message. I wasn't really aware
3 of that message. Joseph Costello yesterday, he recalled my
4 memory about at the end of the meeting Joseph was like, I'm
5 going to do my best. And then I recall that Mark said, you
6 just gave them a time frame, you just promised. He was like,
7 it involves other agencies. I think this is when the things
8 about the IMNS and the DOS came up. Me and Mark, we already
9 know what the FBI are capable of and what they could do as a
10 government, so there was no need to keep bringing whatever we
11 agreed upon.

12 Q. About how much later was the second meeting, roughly?

13 A. Almost like a week.

14 Q. At that second meeting, do you recall, was there any
15 discussion about confidentiality or any other issues concerning
16 what they were promising you?

17 A. They assured the confidentiality. He kept saying to me not
18 to mention anything about those meetings to my brothers, to my
19 sister, to whoever it is. I recall in the second meeting it
20 didn't start well.

21 Q. Why didn't the second meeting start well?

22 A. Keri said that concerning my kids, it will be difficult
23 than they thought it would be because my wife, she still has
24 the right for the kids' custody. So she could do it as I will
25 be able to go visit Kara, and they could arrange a meeting

1 between me and Kara with the presence of the two governments
2 and we could agree on that.

3 I rejected that because I told them that this is a
4 thing that's already been agreed on, that this is a thing you
5 already gave me a time frame for. Things start getting wrong.
6 This is when Costello jumped in and he started saying, we are
7 still working on that thing. We are not saying that it will
8 never happen, but we are giving you a different option or a
9 different suggestion.

10 She also stated, Keri also stated, that as soon as I
11 could bring my kids over here for a visit, I could still issue
12 a court order that prevents them from traveling or living
13 anywhere else. I tried to explain to her that I'm not trying
14 to deprive my wife from the kids' custody, but at the same time
15 I don't want my kids to be raised around such kind of people.

16 Q. After you had this dispute, I think you called it, about
17 the possibility of you going to Canada instead of the FBI
18 bringing them here, did the meeting continue when you talked
19 about the topics that they were interested in?

20 A. Yes. After Joseph Costello reassured me, he was like they
21 are still working on that, it's not like a definite no, but we
22 are giving you a different suggestion, different option, just
23 in case things go wrong. I remember at that time Joseph
24 Costello had the birth certificates of my kids in his hand.

25 THE COURT: Did you hear them say that they would use

1 their best efforts or did you hear them say we'll guarantee
2 you?

3 THE WITNESS: On their part, the FBI part, they
4 guaranteed it. On the other agents's part, they will use their
5 best efforts.

6 THE COURT: Who said they will guarantee it?

7 THE WITNESS: Both of them, Costello and Keri.

8 THE COURT: Did you hear your lawyer say that they
9 promised only their best efforts, they didn't guarantee it?

10 THE WITNESS: When he testified?

11 THE COURT: Yes.

12 THE WITNESS: Yes, I heard him.

13 THE COURT: So he was wrong?

14 THE WITNESS: I don't think he was wrong. He was
15 incomplete about that statement.

16 THE COURT: He said they didn't guarantee it.

17 THE WITNESS: They didn't guarantee it concerning
18 other agencies, your Honor.

19 THE COURT: The other agencies?

20 THE WITNESS: Yes.

21 THE COURT: You thought the FBI could just reach in,
22 grab the kids, and bring them to you?

23 THE WITNESS: After what they did to me, I believed
24 they could do that.

25 THE COURT: That's what you thought at that time?

1 THE WITNESS: No. I wanted to do it the legal way.

2 THE COURT: You knew they had to work with Homeland
3 Security, right?

4 THE WITNESS: For what?

5 THE COURT: To get your kids back, to give you
6 visitations.

7 THE WITNESS: They mentioned the department of state
8 at that time.

9 THE COURT: So they had to work with the department of
10 state?

11 THE WITNESS: That's true.

12 THE COURT: Did they say they can't guarantee, they
13 can only use their best efforts, they being the two agents?

14 THE WITNESS: The general understanding is that they
15 will guarantee it.

16 THE COURT: I'm asking you what they said.

17 THE WITNESS: Yes, your Honor.

18 THE COURT: Did they say, we'll guarantee it?

19 THE WITNESS: Yes, they said, we'll guarantee it.

20 THE COURT: Or did they say, we will try our best?

21 THE WITNESS: They said, we will guarantee it. Your
22 Honor, when they give me a time frame that by late August your
23 kids will be here, what does that mean?

24 THE COURT: It could mean anything. It could mean
25 they guaranteed or they will try their best to get to it. The

1 question is, what did you hear them say? Not what you thought,
2 but what did you hear them say?

3 THE WITNESS: They guarantee it, your Honor.

4 THE COURT: You heard them say, we'll guarantee it?

5 THE WITNESS: Yes. That was the basic understanding.

6 THE COURT: I didn't ask you what the basic under-
7 standing was.

8 THE WITNESS: They guaranteed it, your Honor.

9 THE COURT: They said to you, we'll guarantee it?

10 THE WITNESS: Yes, they said, we'll guarantee it.

11 THE COURT: You will have your kids back in August?

12 THE WITNESS: Yes.

13 THE COURT: That's what I wanted to know.

14 BY MR. SCHACHT:

15 Q. How did that meeting end?

16 A. Second meeting?

17 Q. Yes.

18 A. As usual, we thank you for your cooperation.

19 Q. Did you have a third meeting?

20 A. We did have a third meeting.

21 Q. Was there anything in your recollection unusual about the
22 third meeting?

23 A. At the third meeting, there is a bit of confusion when Mark
24 submitted this piece of paper right here, the memorandum.

25 Q. You have to say --

1 THE COURT: Exhibit 405.

2 Q. Exhibit 405?

3 A. Exhibit 402 actually.

4 Q. 402. Let me ask you a preliminary question. You heard the
5 agents and you heard Mr. Denbeaux say that Exhibit 402 was
6 given at the beginning of the second meeting, right?

7 A. Yes.

8 Q. You submitted an affidavit that you recall where you said
9 it was at the second meeting.

10 A. That's true.

11 Q. Now, as you sit here today, is it your recollection that
12 that was at the second or third meeting?

13 A. I don't know that it matters if it was the second or the
14 third. It was submitted to them.

15 Q. Right. When that was submitted to them, to the FBI by
16 Mark, were you in the room?

17 A. Yes, I was in the room.

18 Q. What, if anything, was said by Mark or the agents when he
19 gave them that document?

20 A. The reason that that document was given to them is that I
21 complained to Mark. When they sort of start giving me another
22 suggestion for bringing my kids mere, I was like I don't want
23 things to be -- I want things to be a mutual understanding. At
24 the start of that meeting he submitted that letter. That was
25 the first time I read that letter or that memorandum.

1 I recall Joseph Costello sitting across from, me and
2 Keri was sitting a little bit to the left. Me and Joseph, we
3 finished it quickly. And Joseph was like, I agree to it, I
4 have no objections in it. Then Keri said, excuse me, I'm a
5 slow reader, I didn't finish reading it.

6 This is when Joseph, Special Agent Joseph Costello, he
7 summarized it for her. It was like the first note says that no
8 statements could be used against him, no prosecution. And she
9 was like, I got that part, I read that part. Then he explained
10 the second part, which concerned bringing the kids from Canada
11 to the United States.

12 Q. Do you recall what, if anything, they did with the
13 document?

14 A. Keri put it in her file. I remember that very well.
15 Joseph Costello had it right in front of him.

16 Q. Was there anything at that third meeting that stands out in
17 your memory about the meeting?

18 A. Yes.

19 Q. What stands out in your memory as you sit here now about
20 that third meeting?

21 A. I asked to speak to Agent Keri alone.

22 Q. Was that agreed to?

23 A. Yes, that was agreed to.

24 Q. Was there any changing of seating in the conference room
25 where you were meeting?

1 A. Yes. The room had a glass door. I asked Agent Keri to sit
2 right in front of the door just in case for Agent Costello to
3 keep seeing in. And I sat to the other side. So we switched
4 seats. One of the reasons that I didn't want to have Costello
5 at the meeting that the day, and I discussed that with Mark
6 later on at that meeting, is that Special Agent Costello in the
7 meeting before, he took some things personally, and he gets on
8 some of my personal stuff. I thought that was very disrespectful,
9 so I didn't feel like talking to him.

10 Q. Was most of that meeting alone with you and Agent Shannon?

11 A. That's true.

12 Q. How did that meeting end?

13 A. Mark knocking on the door that he has to go.

14 Q. Was there an arrangement for a fourth meeting or was that
15 done later?

16 A. Yes. Most of the arrangements went between them and Mark
17 because Mark at that time, he was getting some sort of
18 medication and trying to fit them in his schedule.

19 Q. At the fourth meeting was there any discussion about the
20 immigration help that your family needed?

21 A. There wasn't any discussion about that. This matter was
22 settled that they are working on those visas. I recall that
23 Joseph Costello said to me not to mention to my family, like my
24 father and my sister -- or how to mention to my father and my
25 sister about the visa thing.

1 I told them that I'm eligible to file for my father,
2 and I already told them that I filed the application for him.
3 And for my sister, I already mentioned to her that I'm sending
4 her a visitation letter, so most likely she will come back to
5 the United States.

6 He was like, yes, that's the best thing to do because
7 even in the American embassy in Beirut, Lebanese people work
8 over there and we can't trust them. That's part of keeping
9 everything confidential.

10 Q. Getting back to the use of the word "confidential," you
11 testified that you were promised confidentiality. Is that the
12 actual word that was used?

13 A. Yes.

14 Q. What did you understand that word to mean,
15 "confidentiality"?

16 A. Secrecy, keeping everything disclosed.

17 Q. Do you know what "disclosed means," keeping everything
18 disclosed?

19 A. I mean like not spread out, not to tell anyone of those
20 meetings. Just to illustrate that point, during that time
21 Michael Flynn was about to be prosecuted, the national security
22 adviser. We had a discussion, me and Mark, because he was
23 asking for immunity at that time. I'm like, Michael Flynn is
24 asking for immunity. Do you think we should ask for that? He
25 said like, you got confidentiality, you got the agreement or

1 the promise of no prosecution, no crime committed.

2 THE COURT: That's not a waiver of attorney-client
3 privilege, Mr. Schacht.

4 MR. SCHACHT: It's a waiver of the advice that Mr.
5 Denbeaux gave to him, yes. I think talking about the advice
6 that Mr. Denbeaux gave is fair game.

7 THE COURT: Does that raise the question of all the
8 attorney-client privileges surrounding these meetings?

9 MR. SCHACHT: I think we addressed this at the
10 beginning of the hearing where I said I think the advice that
11 he got in certain areas to further the narrative is important
12 to come out. I thought I said it when Mr. Denbeaux was on the
13 stand during cross-examination. In response to my objection,
14 you asked me what I was objecting to.

15 THE COURT: I think if the government were to ask for
16 all of the writings that existed between your client and Mr.
17 Denbeaux, I would give it to them if you continue this line.

18 MR. SCHACHT: All right, your Honor.

19 A. My understanding --

20 THE COURT: Don't. Wait for a question.

21 Q. Stop for a second. In your conversation --

22 THE COURT: And I'll disregard the question and his
23 answer.

24 MR. SCHACHT: I can rephrase it.

25 THE COURT: It's already been answered.

1 MR. SCHACHT: Is it part of the record? It's not
2 stricken?

3 THE COURT: I'll strike it from the record if the
4 government consents.

5 MS. HOULE: Your Honor, we will consent to striking it
6 if Mr. Schacht will now refrain from this line of questioning.

7 MR. SCHACHT: I won't ask what Mr. Denbeaux said to
8 him.

9 THE COURT: Or what he said to Denbeaux.

10 MR. SCHACHT: Yes.

11 THE COURT: It's only what Denbeaux said to the
12 government that he heard him say to the government.

13 MR. SCHACHT: Yes.

14 THE COURT: That testimony is stricken.

15 BY MR. SCHACHT:

16 Q. Do you remember testifying earlier at the first of the five
17 meetings with Agents Shannon and Costello that there was talk
18 about confidentiality at the first meeting?

19 A. Yes, I do remember that.

20 Q. What was your understanding --

21 THE COURT: He said confidentiality means not to talk
22 to anyone.

23 Q. Is that your answer, that confidentiality means what was
24 said in the room wouldn't be repeated?

25 A. Yes, it won't be released to the public. That's concerning

1 the safety of my family and my kids.

2 Q. Do you recall the fifth meeting that we have heard about
3 here at the hearing?

4 A. Yes, I do recall the fifth meeting.

5 Q. Was there anything noteworthy at the fifth meeting that
6 occurred with you and Mr. Denbeaux and the two agents?

7 A. I recall at the start of the meeting that Agent Costello
8 reassured me that he is working on the visa application and
9 whatever other promises he gave me. He said that he is doing
10 his best concerning the kids. Then I recall very well that
11 Mark, he said, you promised. Then Agent Costello said, I
12 didn't promise. This is when Mark stood up in his face and he
13 pointed his finger at him, and he was like, yes, you promised,
14 you promised us. This is when Joseph Costello kept quiet. And
15 the meeting went on.

16 Q. Do you recall testimony here from Agent Costello about the
17 fact that you had sent him, emailed him, your résumés?

18 A. That's true, I recall that.

19 Q. How did that come about that you sent him your résumé?

20 A. In the fourth meeting -- I mean in the third meeting
21 Special Agent Keri, she said, how could we help you, how we
22 could make things easier for you, just let me know and we could
23 help. I said, I would like to have a job in the engineering
24 domain.

25 In the fourth meeting Agent Joseph Costello, he

1 brought up the issue. He was like, to show you that we are
2 really truthful about helping you out and about the promises
3 that we give, why don't you give us something that's really
4 very easy to achieve, it doesn't really take time. I'm like,
5 like what? He was like, like finding a job. I was like yeah,
6 I would love to have a job in the engineering domain.

7 I remember he was taking some notes about what
8 major -- or what position I would like to have. I recall that
9 I said to him I won't accept any job that will pay me less than
10 \$120,000 a year that's in the engineering domain. He said,
11 this is more than I make. This is when I said, I won't be
12 doing whatever you're doing. My credential, my degree may be
13 better than yours. But it had nothing to do with an FBI
14 position or FBI job.

15 Surprisingly, in the complaint, I don't know what is
16 the reason they say that, that I asked for \$120,000, that I
17 sold information for \$120,000.

18 Q. So the reason why you sent him the résumé was following
19 these conversations?

20 A. He asked me to send a résumé to Mark and Mark would forward
21 it to him. But when I was preparing the résumé to send it to
22 Mark, I don't know, my instinct just told me to send it
23 straight to him, so I sent it straight to him.

24 THE COURT: How much more do you have?

25 MR. SCHACHT: I only have about another five to ten

1 minutes.

2 THE COURT: How much cross-examination?

3 MS. HOULE: Probably about 30 minutes, your Honor.

4 THE COURT: We are going to come back tomorrow at
5 10:30. Okay everybody?

6 MR. SCHACHT: You said 10:30 tomorrow?

7 THE COURT: I did.

8 MR. SCHACHT: Do you want me to finish my five to ten
9 minutes?

10 THE COURT: Do another ten minutes. Maybe you will
11 finish.

12 BY MR. SCHACHT:

13 Q. You testified that you had been promised confidentiality.
14 My question is, Mr. Kourani, would you have spoken to the FBI
15 had they not promised you confidentiality?

16 A. No.

17 THE COURT: That's not a proper question, Mr. Schacht.
18 You know that.

19 MR. SCHACHT: I think that gets to the heart of the
20 issue here.

21 THE COURT: Yes, but it's not testimony. It's what he
22 can now say he wished to happen.

23 MR. SCHACHT: I'm asking him whether --

24 THE COURT: All right, ask your question.

25 MR. SCHACHT: It is arguably in a slightly leading

1 fashion.

2 THE COURT: Ask the question.

3 Q. What was the significance to you of being promised
4 confidentiality.

5 A. My safety.

6 Q. How would confidentiality ensure your safety?

7 A. I already seen what those militias are capable of. You
8 know very well, even in this court here, I'm not comfortable
9 speaking in public. I already suggested that.

10 Q. You testified a little earlier that you were told that what
11 you had said to the FBI would not be used against you. Was
12 that one of the promises that you understood you were receiving
13 from them?

14 A. That was the basic understanding that we all initiated the
15 conversation of the meeting on.

16 Q. Which meeting?

17 A. All of the meetings with FBI agents. That was the first
18 statement that Mark said to them.

19 Q. Would you have spoken to them openly without that promise?

20 A. No. They already spoke to me before, and I never said
21 anything.

22 THE COURT: You didn't answer the question.

23 MR. SCHACHT: He answered no, your Honor, and followed
24 up.

25 THE COURT: He explained it.

1 A. The answer is no, I would never speak to them.

2 MR. SCHACHT: I have no other questions on direct
3 examination.

4 THE COURT: Do you want to do about five minutes, Ms.
5 Houle?

6 CROSS-EXAMINATION

7 BY MS. HOULE:

8 Q. Mr. Kourani, you testified about the education that you
9 received on direct examination, right?

10 A. Yes, that's right.

11 Q. One of the things that you didn't mention, though, is that
12 you were also trained in withstanding interrogation, right?

13 A. Interviewing or interrogation.

14 THE COURT: Answer the question yes or no.

15 A. No.

16 Q. You are trained in withstanding interviewing or
17 interrogation, right?

18 A. Yes to interviewing, no for interrogation.

19 Q. You were trained to withstand interviewing, right?

20 A. Yes.

21 Q. That is something that you have researched on your own,
22 right?

23 A. Researched on my own, from my own experience.

24 Q. The answer is yes?

25 A. Yes.

1 Q. It's something that you also received training for from
2 unit 910, right?

3 MR. SCHACHT: Objection, your Honor.

4 THE COURT: Overruled.

5 A. Sorry?

6 MR. SCHACHT: Your Honor --

7 THE COURT: You received training from an outfit
8 called 910?

9 MR. SCHACHT: Your Honor, I object that this won't be
10 admissible if there were to be a trial in the case. It goes
11 beyond my direct examination, which began --

12 THE COURT: I sustain your objection.

13 Q. Without getting into the specifics of who trained you, you
14 received --

15 THE COURT: You got that. Move on, Ms. Houle.

16 MS. HOULE: Okay.

17 Q. In 2016, when you spoke with FBI agents, you employed some
18 of the tactics that you had learned to withstand interviewing,
19 right?

20 A. 2016?

21 Q. Right.

22 A. With what agents?

23 Q. With the FBI agents that you testified about on direct.

24 A. I don't recall that.

25 THE COURT: The agents who spoke to you in 2016, the

1 question by Ms. Houle is whether you used the techniques you
2 learned about being interviewed in giving answers in an
3 interview.

4 A. No.

5 Q. You didn't avoid telling them about your weaknesses?

6 A. No.

7 THE COURT: Ms. Houle, this is a profitless exercise.

8 MS. HOULE: I'll move on, your Honor.

9 Q. I'd like to focus on those meetings that you had in 2016
10 with the FBI agents.

11 A. That's in Chicago, right?

12 Q. In New York and Chicago I believe was your testimony.

13 Right?

14 A. Yes.

15 Q. You talked a lot about those meetings, and there are just a
16 few points that I want to focus on. First, it is your
17 testimony, right, that the FBI agents told you in 2016 that if
18 you wanted to cooperate, you needed to be straightforward.

19 That was your word, right?

20 THE COURT: Did you say that?

21 A. I don't recall I said that in 2016.

22 Q. In your testimony on direct examination you said that you
23 understood that the agents were requiring you to be straight-
24 forward if you wanted to cooperate, right?

25 A. I said I don't recall that. What I recall about 2016 is

1 that they were trying to hire me as an informant.

2 Q. Okay. You understood that --

3 THE COURT: In that effort to hire you as an inform-
4 ant, did you hear the words or the substance of the words that
5 Ms. Houle asked you? Stop fencing, please. Answer the
6 questions.

7 THE WITNESS: Maybe.

8 THE COURT: Do you want to hear it again?

9 (Question read)

10 THE COURT: Was that your understanding?

11 THE WITNESS: Yes, that's my understanding.

12 THE COURT: Then say it.

13 Q. The agents also told you that they believed that you were a
14 member of Hezbollah, right?

15 A. No, they didn't say that.

16 Q. You didn't testify to that on your direct examination
17 today?

18 A. On my direct examination I said that they believe I have
19 affiliation with Hezbollah.

20 Q. You were affiliated with Hezbollah?

21 A. Yes.

22 Q. You said that you denied that?

23 A. Exactly.

24 Q. But the agents did not believe you, right?

25 A. I don't know what the agents believed or not.

1 Q. They told you that you were lying, right?

2 A. No, they didn't say that.

3 THE COURT: What did they say?

4 THE WITNESS: They said that you have some
5 connections, and then they changed the topic, they changed the
6 subject. They started talking about my background.

7 THE COURT: You said you had no connections and they
8 said you had connections. Obviously, both they and you had a
9 different understanding.

10 THE WITNESS: Exactly.

11 THE COURT: You said you had no connections, right?

12 THE WITNESS: Yes, I denied that.

13 THE COURT: They said you did have connections?

14 THE WITNESS: Yes, your Honor.

15 Q. The FBI agents told you that if you were not honest with
16 them, they were going to continue to investigate you, right?

17 A. No, they didn't say that.

18 THE COURT: What did they say?

19 THE WITNESS: They said they will turn my life upside
20 down if I don't cooperate with them. They threatened me with
21 my baby's health.

22 Q. Let's talk about turning your life upside down. You
23 testified on direct to interviews --

24 THE COURT: This is profitless. There is no point to
25 this, Ms. Houle. Focus on what is important.

1 Q. In 2016 you told the FBI that you did not want to
2 cooperate, right?

3 A. I don't want to be an informant.

4 Q. Then in 2017 you went back to the FBI because now you were
5 interested in cooperating, right?

6 A. In helping them out.

7 THE COURT: And being an informant right?

8 THE WITNESS: Yes, and being an informant.

9 Q. You had your lawyer call them, right?

10 A. Yes.

11 Q. You had your lawyer set up meetings on your behalf?

12 THE COURT: Ms. Houle, please go into what's
13 important, not what's obvious.

14 Q. To be clear, Mr. Kourani, you testified that in 2016 you
15 were offered money?

16 A. That's true.

17 Q. In 2017 you were not offered any money, right?

18 A. No, they offered me. He said that's the easiest thing they
19 could get. I said I don't need money.

20 Q. Who said that?

21 A. Joseph Costello.

22 Q. When did he say that?

23 A. I think it was around the fourth meeting when he talked
24 about the job, when he talked about things that's easier to
25 achieve.

1 Q. You are saying that he said he could perhaps help you get a
2 job?

3 A. Mm-hm.

4 Q. But no one offered you money?

5 A. I didn't say no one offered me money.

6 Q. Did anyone offer you money in 2017?

7 A. Definitely offered money in 2017. He said that's the
8 easiest thing to do. Money, we have plenty of that. I
9 remember his words very well.

10 THE COURT: Let's recess at this point. Ms. Houle,
11 spend the night and try to focus just on what's important.

12 MR. SCHACHT: Understood, your Honor.

13 THE COURT: Not repeating what was said to try to
14 catch a number of things, but just what is important. Okay?

15 MS. HOULE: Yes, your Honor.

16 THE COURT: It can be a 15-minute cross-examination.
17 See you at 10:30 in the morning.

18 (Witness not present)

19 THE COURT: What's going on?

20 MR. BOVE: Your Honor, for planning purposes, we were
21 wondering whether following the conclusion of evidence there
22 was going to be an opportunity to submit briefing.

23 THE COURT: No.

24 MR. BOVE: What should we plan on tomorrow, your
25 Honor?

1 THE COURT: Ms. Houle will finish and the direct will
2 finish, you will argue your points, and I'll rule.

3 MR. BOVE: Thank you, Judge.

4 MR. SCHACHT: Thank you.

5 (Adjourned to 10:30 a.m., March 28, 2018)

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